IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

MFA.No. 824 of 2002()

OPMV.807/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA
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APPELLANT: PETITIONER IN OP (MV)

PAULY, S/O. ITTIRA, PERAPPADAN HOUSE, ELINJIPRA P.O., MUKUNDAPURAM.

BY ADV. SRI.P.V.BABY

RESPONDENTS: RESPONDENTS IN OP (MV)
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1. **C.L.PAUL, CHIRAYATH HOUSE, GANDHIGRAM, IRINJALAKUDA.**
2. **ANTO, S/O. LAZAR,ELUVATHINGAL HOUSE, POTTA P.O.**
3. **THE ORIENTAL INSURANCE CO.LTD., THRISSUR.**

BY ADV. SRI.MATHEWS JACOB (SR.) - R3
SRI.P.JACOB MATHEW

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 05/11/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.F.A.No.824 of 2002

Dated this the 5th November, 2007.

J U D G M E N T

The petitioner in O.P.(M.V.) No.807/1996, on the file of the Motor Accidents Claims Tribunal, Irinjalakuda, is the appellant. The appellant met with a motor vehicle accident on 10.12.1995. He filed a petition claiming compensation impleading the owner, rider and also the Insurer of the vehicle. The owner and rider did not contest the matter. The Insurer alone contested the matter. It was contended that the vehicle was covered with a valid policy of Insurance. The quantum of compensation claimed was denied. The occurrence was denied. The Tribunal after considering the evidence found that the accident occurred due to the negligence of the rider of the motor cycle. The Tribunal further found that the appellant is entitled to get compensation and awarded an amount of Rs.20,000/= as compensation. The 3rd respondent, Insurer, was directed to pay the amount. Challenging the compensation, this appeal is filed.

2. The only question arising for consideration in this appeal is whether the appellant is entitled to get any further compensation. Other issues have already become final and conclusive.

Ext.A5 wound certificate shows that the main injury sustained by the appellant was Fracture left mandible. The appellant produced a disability certificate to show that he sustained disability to 10%. The Tribunal rejected the said certificate and held that the disability is only 2% and allowed a compensation of Rs.6120/= for disability and Rs.4000/= for pain and suffering. Considering all aspects of the matter, I am of the view that the Tribunal ought to have ordered another Rs.4000/= for disability and Rs.3500/= for pain and sufferings. So, the total additional compensation due to the appellant will come to Rs.7500/=, which will carry interest at the rate of 6%.

In the result, the appeal is allowed in part. An award is passed in favour of the appellant authorising him to recover an amount of Rs.7500/= as additional compensation with 6% interest, from the date of petition till the date of deposit. The 3rd respondent Insurer is directed to deposit the additional compensation amount. On deposit, the appellant can withdraw the entire amount.

K.PADMANABHAN NAIR,
JUDGE

nj.

K.PADMANABHAN NAIR, J.

M.F.A.No.824 of 2002

J U D G M E N T

Dated:5th November, 2007.